S.B.Criminal Misc. III Bail Application No.3264/2006
(Bheri Vs. State of Rajasthan)

Date of order : 07.09.2006

HON'BLE MR.H.R.PANWAR,J.

Mr. R.K.Charan for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. Ramesh Purohit for the complainant.

This is second bail application filed by the present petitioner.

I have heard learned counsel for the petitioner, public prosecutor for the State and the counsel appearing for the complainant.

It is contended by the learned counsel for the petitioner that the total number of witnesses in the Calender of witnesses cited by the police are 63 out of which 29 witnesses have been examined by the trial court and the trial is likely to take time. Learned counsel submits that one of the witness to the recovery PW-21 Bheru has not supported the prosecution case and turned hostile and other witness to the recovery PW-20 Murli Manohar though stated that the police made a recovery from the present petitioner i.e. 8 currency notes of Rs. 500/- denomination amounting to Rs.4000/-, a glass and one Nokia

Mobile Set. The glass which alleged to have been recovered bears the name of complainant to whom it is alleged to have been presented by one Pradeep Kumar Kothari. Learned counsel submits that the witness stated that when the police recovered the articles from the room of the petitioner, he was standing outside the room and therefore, he has not witnessed the recovery. However, PW-20 stated that he witnessed the recovery and recovery was effected from the house of the petitioner by the police. He stated that he was standing outside the room from where he could see that the petitioner got the recovery made to the police.

Learned public prosecutor submits that the bail application filed by similarly situated co-accused Sanwara @ Hemant from whom only a glass was recovered, has been dismissed very recently by a Co-ordinate Bench of this Court vide order dated 2.5.2006 and the case of the present petitioner is not on better footing then the case of co-accused Sanwara whose bail application has been dismissed. It is also contended by learned public prosecutor that the police collected call record of the Mobile of the petitioner and it is the petitioner who is operating a gang and committed the dacoity and entire net-work was monitored by her and dacoity has been committed under a criminal conspiracy with other co-accused by her and the

petitioner is directly involved in the commission of crime which according to the public prosecutor is evident from the call records of the mobile set.

On careful scrutiny of the challan papers and the material on record and even taking the statement of PW-20 who supports the recovery, yet some of the witnesses to the recovery including the recovery officer are to be examined, keeping in view the gravity of the offence in the manner it was committed, I do not consider it a fit case to release the petitioner on bail. The third bail application is therefore, dismissed. However, the trial court is directed to expedite the trial of the case.

(H.R.PANWAR), J.

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